

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
NO. 4:03-CV-31-H(2)

DAVID C. ANDERSON and SAMUEL)
PULLEN, on behalf of themselves)
and all others similarly)
situated,)
)
Plaintiffs,)
)
)
v.)
)
)
SARA LEE CORPORATION,)
)
Defendant.)

ORDER

This matter is before the court on plaintiffs' Motion for Conditional Collective Certification and to Facilitate Court-Approved Notice Pursuant to 29 U.S.C. § 216(b) [DE #137]. Defendant continues to assert that plaintiffs' collective allegations are time barred, but nevertheless concedes that conditional certification of the claims is appropriate and that notice of the action should be sent to putative plaintiffs. Defendant objects, however, to plaintiffs' proposed notice and procedures for informing putative plaintiffs of the action.

The court agrees with the parties that plaintiffs' Fair Labor Standards Act claims should be conditionally certified and, therefore, GRANTS plaintiffs' motion for conditional certification on the terms set forth herein. The court

certifies as a collective action under 29 U.S.C. § 216(b) the following defined class:

All current and former non-exempt, hourly production workers employed by Sara Lee Corporation at its Tarboro, North Carolina, facility at any time during the period of January 27, 2001 through April 1, 2003.


The court designates Alvin L. Pittman as counsel for the collective action class.

The court DENIES WITHOUT PREJUDICE plaintiffs' motion for court approval of plaintiffs' proposed notice to putative plaintiffs and plaintiffs' request for permission to post and publish the notice. The court DIRECTS the parties to confer and jointly submit, within twenty-one (21) days of the date of this order, a revised proposed notice and opt-in form, as well as proposed procedures for distributing notice of the suit to putative plaintiffs. To assist counsel in their discussions, the court directs counsel's attention to the notices approved by the court in the following cases: Martinez-Hernandez v. Butterball, No. 5:07-CV-174-H (E.D.N.C. Feb. 5, 2009) (DE #131-2); Hosler v. Smithfield Packing Co., Inc., No. 7:07-CV-166-H (E.D.N.C. Aug. 8, 2008) (DE #233); and Parker v. Smithfield Packing Co., Inc., No. 7:07-CV-176-H (E.D.N.C. Aug. 8, 2008) (DE #111).

Within thirty (30) days of the date of this order, defendant shall provide plaintiffs' counsel with the names and last known addresses of all putative class members so that counsel may inform the individuals of the pending suit and their right to join the action.

The court refers this matter to United States Magistrate Judge David W. Daniel for entry of a revised scheduling order and to establish deadlines for completion of any additional discovery and for filing any dispositive motions or motions for decertification of the conditionally certified collective action.

This 24TH day of October 2011.


MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
#31